

**\*\* NOT FOR PRINTED PUBLICATION \*\***

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

ALBELINO HERNANDEZ

§

VS.

§

CIVIL ACTION NO. 9:19cv167

KARRY COOPER

§

**ORDER OVERRULING OBJECTIONS AND ACCEPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Albelino Hernandez, an inmate formerly at the Lewis Unit, proceeding *pro se* and *in forma pauperis*, brought the above-styled lawsuit pursuant to 42 U.S.C. § 1983 against Karry Cooper.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends this action be dismissed as frivolous and for failure to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful *de novo* review and consideration, the court concludes plaintiff's objections are without merit. For the reasons set forth in the Report, plaintiff's property claim is frivolous and fails to state a claim upon which relief may be granted. Further, plaintiff has no expectation of privacy

in his cell. In *Hudson v. Palmer*, 468 U.S. 517 (1984), the Supreme Court made clear that inmates have no reasonable expectation of privacy in their prison cells. Specifically, “an inmate’s constitutional rights are not violated by . . . a guard’s at will cell search, even when the guard loses or destroys an inmate’s personal property.” *Evans v. Collins*, 9 F. 3d 1546, 1993 WL 503352 at \*1 (5th Cir. 1993).

ORDER

Accordingly, plaintiff’s objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ACCEPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge’s recommendations.

So ORDERED and SIGNED, Aug 31, 2020.

A handwritten signature in black ink, appearing to read "Ron Clark", written over a horizontal line.

Ron Clark  
Senior Judge